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PERKINS COIE LLP (BOEING)
P.O. BOX 1247
PATENT - SEA
SEATTLE, WA 98111-1247

EXAMINER

MANCHO, RONNIE M

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL B. McAVOY

Appeal 2009-003397
Application 10/731,695
Technology Center 3600

Before WILLIAM F. PATE, III, JENNIFER D. BAHR and
JOHN C. KERINS, *Administrative Patent Judges*.

KERINS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Michael B. McAvoy (Appellant) seeks our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-7, 11, 12 and 71-77. Claims 14-70 were canceled and claims 8-10 and 13 have been withdrawn from consideration. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We REVERSE.

THE INVENTION

Appellant's invention is directed to a method for distributing power to a plurality of electrical devices in a vehicle. Claim 1, reproduced below, is illustrative of Appellant's invention:

1. A method for distributing electric power to a plurality of electrical devices in a vehicle, the method comprising:

receiving at least a first operating command for at least one of the plurality of electrical devices;

in response to receiving the operating command, polling the plurality of electrical devices for power requests;

receiving at least one power request from the plurality of electrical devices in response to the poll; and

distributing power to the electrical devices based on the at least one power request received from the plurality of electrical devices.

(Appeal Br., Claims Appendix)(emphasis added).

THE REJECTION²

The Examiner has rejected claims 1-7, 11, 12 and 71-77 under 35 U.S.C. § 102(b) as being anticipated by Weiler (US 5,936,318, issued August 10, 1999).

ISSUE

Has the Examiner established that Weiler discloses a method in which, in response to receiving an operating command, a plurality of electrical devices are polled for power requests?

ANALYSIS

The Examiner has not specifically pointed out where, in the Weiler disclosure, a step of polling a plurality of electrical devices is *performed in response to receiving an operating command*, as set forth in independent claims 1 and 71. Instead, the Examiner explains that devices 27, 40 and 43 of Weiler “are continually polling all the [electrical] devices 14-18 for power request[s]”, and points out that, while Appellant “*appears to be arguing selectively polling electrical devices*”, the claims “*do not preclude continuously polling electrical devices.*” (Ans. 9).

Whether independent claims 1 and 71 might or might not preclude continuous polling, the claim language, on its face, specifically requires that there is to be a step performed of polling the electrical devices *in response to receiving an operating signal*. There must, therefore, be a particular polling

² Rejections of claims 71-77 under 35 U.S.C. § 112, first paragraph (enablement) and of claims 2-7 under 35 U.S.C. § 112, second paragraph (indefiniteness) made in the Final Rejection dated January 30, 2007, were withdrawn in the Examiner’s Answer. (Ans. 9).

operation associated with the receipt of and in response to an operating command. A disclosure of continuously monitoring loads occasioned by supplying power to electrical devices, even if regarded in a broad sense as a “polling” of the electrical devices, does not amount to a disclosure of the claim step requiring a polling in response to the receipt of an operating signal.

The rejection of independent claims 1 and 71, and of claims 2-7, 11, 12 and 72-77 depending therefrom, will not be sustained.

CONCLUSIONS

The Examiner has not established, by a preponderance of the evidence, that Weiler discloses a method in which, in response to receiving an operating command, a plurality of electrical devices are polled for power requests.

DECISION

The decision of the Examiner to reject claims 1-7, 11, 12 and 71-77 is reversed.

REVERSED

mls

PERKINS COIE LLP (BOEING)
P.O. BOX 1247
PATENT-SEA
SEATTLE, WASHINGTON 98111-1247